

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 981 - HB 1239

March 29, 2015

**SUMMARY OF ORIGINAL BILL:** Requires a victim of sexual assault who has submitted to a forensic medical examination to give written consent prior to the respective health care provider releasing a sexual assault evidence kit (SAK) or hold kit to a law enforcement agency. If the victim is a minor, the legally appointed guardian of such minor must provide consent to the release of any such kit. If the victim does not report an alleged sexual offense to police at the time of the forensic medical examination, a hold kit shall be collected and the healthcare provider is required to assign a number to such kit, rather than using the victim's name. The victim shall be provided the identifying number for the respective kit, and any information relative to where and how long the kit will be stored, and the procedures for making a police report. A healthcare provider or law enforcement agency is required to store any SAK or hold kit for a period of three years and shall not be submitted to the Tennessee Bureau of Investigation (TBI) or to a similar laboratory for testing until the victim has filed a police report. Upon 60 days from consent being provided by a victim or the victim's legal guardian, the healthcare provider or law enforcement agency, as applicable, must submit kits to TBI or a similar laboratory for either serology or Deoxyribonucleic acid (DNA) testing. Strictly prohibits submission of a kit without consent of the victim.

Requires the State Domestic Violence Coordinating Council (DVCC) to create a model policy for law enforcement agencies for responding to reports of sexual offenses. Such policy must include guidelines for law enforcement personnel on investigating such reports, providing assistance to victims, collaborating with victim advocates, healthcare providers, and victim services agencies, and collecting, storing, and submitting SAKs to TBI or similar laboratories for testing. Such policy must be distributed to all law enforcement agencies that are likely to encounter reports of sexual offenses on or before January 1, 2016. Any such law enforcement agencies are required to establish written policies and procedures on responding to reports of sexual offenses. A law enforcement agency may adopt the model policy provided by the DVCC, but is authorized to adopt its own policy; provided, any policy created by a law enforcement agency must include the same or higher standards than the DVCC model. Any model created by a law enforcement agency must be adopted on or before July 1, 2016.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (004682):** Deletes all language after the enacting clause. Requires a victim of a sexually oriented crime who has submitted to a forensic medical examination to give written consent prior to the respective health care provider releasing a sexual assault evidence kit (SAK) or hold kit to a law enforcement agency. A hold kit is defined as a

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sexual assault evidence kit that is coded with a number rather than a name pending the victim's decision to report the crime to law enforcement agency. If the victim does not report an alleged sexual offense to police at the time of the forensic medical examination, a hold kit shall be collected and the healthcare provider is required to assign a number to such kit, rather than using the victim's name. The victim shall be provided the identifying number for the respective kit, and any information relative to where and how long the kit will be stored, and the procedures for filing a police report. The healthcare provider is required to provide the numbered hold kit to the appropriate law enforcement agency. A law enforcement agency is required to store any hold kit for a period of three years and shall not be submitted to the Tennessee Bureau of Investigation (TBI) or to a similar laboratory for testing until the victim has filed a police report. Upon 60 days from consent being provided by the victim, the healthcare provider or law enforcement agency, as applicable, must submit kits to TBI or a similar laboratory for either serology or Deoxyribonucleic acid (DNA) testing. Strictly prohibits submission of a kit without consent of the victim.

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## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

### **Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Based on a survey conducted by TBI, there are approximately 678 untested hold kits across 94 sheriffs' offices statewide and approximately 8,384 untested hold kits across 202 police departments statewide, for a total number 8,586 untested hold kits.
- This will not increase the number of SAKs that the TBI would, regardless of this legislation, need to test nor will it require the TBI to complete any such test in a defined period of time.
- It is unknown how many victims will choose to not submit a police report, and forego the submittal of an SAK to law enforcement.
- It is assumed that any increase in the total number of hold kits collected or stored by sheriff and police departments or the number of SAKs sent to TBI would not be significant with relevance to the total number of currently untested SAKs.

- Requiring policies and methods to be adopted by law enforcement agencies will not place any additional requirements upon such agencies that differ greatly from current requirements.
- According to the DVCC, the Council can develop the model policy without additional cost.
- This is not estimated to have a significant impact on state or local government.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "Jeffrey L. Spalding". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Spalding" clearly distinguishable.

Jeffrey L. Spalding, Executive Director

/jdb